



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Teamsters Local 633 of New Hampshire
Plaistow Police Relief Association

Complainant

v.

Plaistow Police Department

Respondent

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Case No. P-0748-11

Decision No. 2001-039

PRE-HEARING MEMORANDUM and ORDER

BACKGROUND

On March 5, 2001, the Teamsters Local 633 of New Hampshire, Plaistow Police Relief Association (hereinafter referred to as the "Union") filed an improper labor practice charge pursuant to RSA 273-A:5 I (h) alleging that the Plaistow Police Department (hereinafter referred to as the "Town") and its agents breached the parties' collective bargaining agreement by failing to abide by an earlier grievance ruling by the Police Chief granting certain Earned Time Off (ETO) when a police officer's request for use of ETO was denied.

The Union seeks relief in the form of an order of the PELRB finding the commission of an unfair labor practice and granting the officer who had been denied the use of ETO an amount of money equal to five times the rate of pay received by that officer for the four shifts he had to work.

On March 14, 2001, the Town answered the Union charges by denying the charge and asserting that the parties were aware that full and immediate implementation of the grievance decision would take an amount of time that precluded the granting of the ETO to the police officer at the time he made his request. The Town also asserts that this matter, which had been originally filed as a grievance, should not be heard by the PELRB

because the appeal period of the Step One grievance expired on December 7, 2000 and this unfair labor practice charge is an attempt to avoid the result of that aborted grievance. The Town believes that there is no justification for the relief, *i.e.* five times the hourly rate, sought by the Union.

The matter was initially scheduled for a Pre-Hearing Conference on March 28, 2001. It was continued at the request of the Town after it obtained consent from the Union. It was not rescheduled until May 16, 2001 by mutual request of the parties.

PARTICIPATING REPRESENTATIVES

For the Union: Thomas D. Noonan, Business Agent and John D. Burke, Esq.

For the District: Gary W. Wulf, Labor Relations Consultant

ISSUE FOR DETERMINATION BY THE BOARD

1. Whether the Town breached the parties' Collective Bargaining Agreement by refusing to grant Officer Morgan the ETO requested?

WITNESSES

For the Union (Complainant):

1. Brett Morgan, Police Officer
2. Patrick Caggiano, Sergeant and Vice President of the Union
3. Glen Miller, Union Official
4. George Wickson, former Union Official

For the Town (Respondent):

1. Stephen Savage, Police Chief
2. Kathy Jones, Lieutenant and Scheduling Officer

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order, or upon proper showing, later reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

EXHIBITS

For the Union:

1. Officer Morgan's grievance, dated 11/22/00
2. Collective Bargaining Agreement, Effective 4/1/00 – 3/31/01 (expired)
3. Notice from Town to Officers, dated 11/29/00
4. Officer Morgan's ETO request, dated 12/3/00
5. Chief Savage's memorandum to Sgt. Caggiano, 12/8/00

For the Town:

1. Grievance Decision from Savage to Caggiano, dated 11/29/00
2. Memorandum from Savage to Caggiano, dated 12/8/00
3. Noonan letter to Savage, dated 2/26/01
4. Collective Bargaining Agreement, Effective 4/1/00 – 3/31/01 (expired)
5. Correspondence (to be subsequently specified to Union)

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is to be understood by the parties that each party may rely on the representations of the other that the exhibits listed above will be available at hearing.

LENGTH OF HEARING

The time being set aside for this hearing as now consolidated with Case No. P-0748-12 is one day. If either party believes additional time is required, written notice of the need for additional time shall be filed with the PELRB no later than June 22, 2001.

DECISION

1. By agreement of the parties, the instant matter and Case No. P-0748-12 shall be consolidated for purposes of the conduct of an evidentiary hearing.
2. The party representatives shall forward any amendments to their Witness and Exhibit lists detailed above to the opposing representative or counsel and to the PELRB no later than July 10, 2001. The party representatives shall meet, or otherwise arrange, to pre-mark all exhibits, for identification, prior to the

time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.

3. Any additional preliminary, procedural or dispositive motions shall be filed by the parties no later than fourteen (14) calendar days prior to the scheduled hearing date.
4. Unless otherwise ordered as a result of the filing of any subsequent motion, an evidentiary hearing between the parties is scheduled to be conducted at the Office of the Public Employee Labor Relations Board on Tuesday July 17, 2001 beginning at 9:30 A. M.

Signed this 16 th day of May, 2001.

A handwritten signature in dark ink, appearing to read "Donald E. Mitchell", is written over a horizontal line.

Donald E. Mitchell, Esq.
Hearings Officer